

FIRST REGULAR SESSION

# HOUSE BILL NO. 482

## 99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE RODEN.

1117H.011

D. ADAM CRUMBLISS, Chief Clerk

### AN ACT

To repeal section 287.067, RSMo, and to enact in lieu thereof two new sections relating to workers' compensation for firefighters.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 287.067, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 287.067 and 287.068, to read as follows:

287.067. 1. **(1)** In this chapter the term "occupational disease" is hereby defined to mean, unless a different meaning is clearly indicated by the context, an identifiable disease arising with or without human fault out of and in the course of the employment. Ordinary diseases of life to which the general public is exposed outside of the employment shall not be compensable, except where the diseases follow as an incident of an occupational disease as defined in this section. The disease need not to have been foreseen or expected but after its contraction it must appear to have had its origin in a risk connected with the employment and to have flowed from that source as a rational consequence.

**(2) For purposes of this section, "hazardous duty" has the same meaning given to the term under 5 CFR 550.902, as amended.**

2. An injury or death by occupational disease is compensable only if the occupational exposure was the prevailing factor in causing both the resulting medical condition and disability. The "prevailing factor" is defined to be the primary factor, in relation to any other factor, causing both the resulting medical condition and disability. Ordinary, gradual deterioration, or progressive degeneration of the body caused by aging or by the normal activities of day-to-day living shall not be compensable.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17           3. An injury due to repetitive motion is recognized as an occupational disease for  
18 purposes of this chapter. An occupational disease due to repetitive motion is compensable only  
19 if the occupational exposure was the prevailing factor in causing both the resulting medical  
20 condition and disability. The "prevailing factor" is defined to be the primary factor, in relation  
21 to any other factor, causing both the resulting medical condition and disability. Ordinary,  
22 gradual deterioration, or progressive degeneration of the body caused by aging or by the normal  
23 activities of day-to-day living shall not be compensable.

24           4. "Loss of hearing due to industrial noise" is recognized as an occupational disease for  
25 purposes of this chapter and is hereby defined to be a loss of hearing in one or both ears due to  
26 prolonged exposure to harmful noise in employment. "Harmful noise" means sound capable of  
27 producing occupational deafness.

28           5. "Radiation disability" is recognized as an occupational disease for purposes of this  
29 chapter and is hereby defined to be that disability due to radioactive properties or substances or  
30 to Roentgen rays (X-rays) or exposure to ionizing radiation caused by any process involving the  
31 use of or direct contact with radium or radioactive properties or substances or the use of or direct  
32 exposure to Roentgen rays (X-rays) or ionizing radiation.

33           6. (1) Disease of the lungs or respiratory tract, hypotension, hypertension, or disease of  
34 the heart or cardiovascular system, including carcinoma, may be recognized as occupational  
35 diseases for the purposes of this chapter and are defined to be disability due to exposure to  
36 smoke, gases, carcinogens, inadequate oxygen, of paid **or volunteer** firefighters of a ~~paid~~ fire  
37 department or paid police officers of a paid police department certified under chapter 590 if a  
38 direct causal relationship is established, or psychological stress of firefighters of a ~~paid~~ fire  
39 department or paid peace officers of a police department who are certified under chapter 590 if  
40 a direct causal relationship is established.

41           (2) (a) **Notwithstanding the provisions of any other law, cancer contracted by a**  
42 **paid or volunteer firefighter who has been assigned to at least five years of hazardous duty**  
43 **as a firefighter constitutes a presumption that the cancer meets the definition of**  
44 **occupational disease under subsection 1 of this section and is compensable under the**  
45 **requirements of subsections 1 and 2 of this section if the firefighter was exposed to an agent**  
46 **classified by the International Agency for Research on Cancer or its successor organization**  
47 **as a group 1 or 2A carcinogen.**

48           (b) **The presumption described in paragraph (a) of this subdivision is rebuttable**  
49 **in any of the following situations:**

50           a. **There is evidence that the firefighter's exposure, outside the scope of the**  
51 **firefighter's official duties, to cigarettes, tobacco products, or other conditions presenting**

52 an extremely high risk for the development of the cancer alleged, was probably a  
53 significant factor in the cause or progression of the cancer;

54 b. There is evidence that the firefighter was not exposed to an agent classified by  
55 the International Agency for Research on Cancer as a group 1 or 2A carcinogen;

56 c. There is evidence that the firefighter incurred the type of cancer alleged before  
57 becoming a member of the fire department; or

58 d. The firefighter is seventy years of age or older.

59 (c) The presumption described in paragraph (a) of this subdivision does not apply  
60 if it has been more than twenty years since the firefighter was last assigned to hazardous  
61 duty as a firefighter.

62 (d) Compensation for cancer contracted by a firefighter in the course of hazardous  
63 duty under paragraph (a) of this subdivision is payable only in the event of temporary total  
64 disability, permanent total disability, or death, in accordance with sections 287.170,  
65 287.200, and 287.230.

66 (e) This subdivision shall apply to paid and volunteer firefighters of all fire  
67 departments of all counties, cities, towns, fire districts, and other government units.

68 (f) This subdivision applies only to claims arising on or after August 28, 2017.

69 7. Any employee who is exposed to and contracts any contagious or communicable  
70 disease arising out of and in the course of his or her employment shall be eligible for benefits  
71 under this chapter as an occupational disease.

72 8. With regard to occupational disease due to repetitive motion, if the exposure to the  
73 repetitive motion which is found to be the cause of the injury is for a period of less than three  
74 months and the evidence demonstrates that the exposure to the repetitive motion with the  
75 immediate prior employer was the prevailing factor in causing the injury, the prior employer  
76 shall be liable for such occupational disease.

287.068. 1. The division shall prepare a report containing the following  
2 information regarding presumed cancer claims under subdivision (2) of subsection 6 of  
3 section 287.067:

4 (1) The number of approved claims;

5 (2) The number of disapproved claims;

6 (3) The number of active claims; and

7 (4) The cost related to claims described under subdivisions (1) and (3) of this  
8 subsection.

9 2. The division shall submit the report required under subsection 1 of this section  
10 before August 28, 2019, and an updated report every two years thereafter, to all of the  
11 following:

- 12       **(1) The speaker and the minority leader of the house of representatives;**
- 13       **(2) The president pro tempore and the minority leader of the senate;**
- 14       **(3) The Missouri Association of Fire Chiefs or its successor organization;**
- 15       **(4) The Fire Fighters Association of Missouri or its successor organization; and**
- 16       **(5) The Missouri Municipal League or its successor organization.**

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